

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 24 FEBRUARY 2009

Present: Councillor N Ebbeck (Acting Chairperson) (Wahroonga Ward)
Councillor S Holland (Comenarra Ward)
Councillor E Keays (Gordon Ward)
Councillors J Anderson & R Duncombe (Roseville Ward)
Councillors T Hall & C Hardwick (St Ives Ward)
Councillor I Cross (Wahroonga Ward)

Staff Present: General Manager (John McKee)
Director Corporate (John Clark)
Director Development & Regulation (Michael Miocic)
Director Operations (Greg Piconi)
Director Strategy (Andrew Watson)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Minutes Secretary (Christina Randall-Smith)

The Meeting commenced at 7.02pm

The Acting Chairperson offered the Prayer

23 Election of Chairperson in the Absence of the Mayor/Deputy Mayor

File: S03662

To elect an Acting Chairperson for the Ordinary Meeting of Council of 24 February 2009 in the absence of the Mayor, Councillor E Malicki & the Deputy Mayor, Councillor J Anderson - Clause 236, Local Government (General) Regulation 2005.

Resolved:

(Moved: Councillors Ebbeck/Cross)

That the method of electing the Acting Chairperson to be by show of hands.

CARRIED UNANIMOUSLY

The General Manager announced that there was one (1) nomination for the position of Acting Chairperson.

Councillor Nick Ebbeck was nominated and accepted the nomination.

Councillor Nick Ebbeck was duly elected unopposed to the position of Acting Chairperson.

24 **APOLOGIES**

File: S02194

The Mayor, Councillor Elaine Malicki tendered apologies for non-attendance (family matter) at this meeting and requested leave of absence.

Councillor Cheryl Szatow tendered apologies for non-attendance (family matter) at this meeting and requested leave of absence.

Resolved:

(Moved: Councillors Hall/Cross)

That the apologies by the Mayor, Councillor E Malicki and Councillor C Szatow for non-attendance be accepted and that leave of absence be granted.

CARRIED UNANIMOUSLY

DECLARATIONS OF INTEREST

The Acting Chairperson adverted to the necessity for Councillors and staff to declare a Pecuniary Interest/Conflict of Interest in any item on the Business Paper.

Councillor Tony Hall declared a possible Conflict of Interest to Item GB.1 - Code of Conduct (Personal).

25 **CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

File: S02499

Resolved:

(Moved: Councillors Cross/Duncombe)

That in accordance with the provisions of Section 10 of the Local Government Act 1993, all officers' reports be released to the press and public, with the exception of:

C.1 Sale of Existing Council Depot Site at Gordon

File: S04550

Report by Director Operations & Manager Strategic Assets & Services dated 28 January 2009.

CARRIED UNANIMOUSLY

PRESENTATION OF GRANTS

Acting Chairperson, Councillor Nick Ebbeck presented cheques to recipients under the Environmental Levy Community Small Grants Scheme.

ADDRESS THE COUNCIL

The following members of the public addressed Council on items not on the Agenda:

D Hodges
M Gooley
I Glendinning

DOCUMENTS CIRCULATED TO COUNCILLORS

The Acting Chairperson adverted to the documents circulated in the Councillors' papers and advised that the following matters would be dealt with at the appropriate time during the meeting:

Late Items:	Mayoral Minute - Refer MM.3 - Report on Bushfire Issues Refer GB.16 - Budget Review 2008 to 2009 - 2nd Quarter Review as at December 2008 - Report by Director Corporate dated 2 February 2009 with attachments.
Councillors Additional Agenda Information	Refer NM.2 - Projected Ku-ring-gai Dwellings/Population Increases Additional Background Information to Councillor Hall's Notice of Motion, as follows: Attachment 4a: Letter by Director Strategy dated 10 November 2008 to Resident regarding proposed re-zoning of properties from Residential to RE1 [Open Space] within the Draft Town Centre Local Environment Plan [LEP] & Attachment 4b: Questions & Answers information.
Councillors Information:	Debtors - Memorandum & Attachment by Director Corporate dated 24 February 2009 in answer to a Question Without Notice raised by Councillor Hall at the Ordinary Meeting of Council held 3 February 2009.
Memorandums:	Refer GB.9 - 24 Gerald Avenue, Roseville - Construction of New Carport - Memorandum by Director Development & Regulation dated 24 February 2009 regarding matters raised at a Site Inspection on Friday, 20 February 2009. Refer GB.13 - Draft Car Parks Plan of Management - Memorandum by Director Strategy dated 24 February 2009 regarding corrections to the Officer's Recommendation & the Attachment.

CONFIRMATION OF MINUTES26 **Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 3 February 2009
Minutes numbered 1 to 22

Resolved:

(Moved: Councillors Cross/Keays)

That Minutes numbered 1 to 22 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting with the exception of Minute No 4.

CARRIED UNANIMOUSLY

27 **VALE Nancy-Bird Walton, AO, OBE**

File: S02380

Meeting held 3 February 2009
Vide Minute No 4

Resolved:

(Moved: Councillors Cross/Keays)

That the subject's name be amended to read Nancy-Bird Walton.

CARRIED UNANIMOUSLY

28 **Update on Draft Development Control Plan (Town Centres) 2008 & Aligned Projects**

File: S04151
Vide Minute No 468

Memorandum by Senior Governance Officer dated 5 February 2009 regarding confirmation of the accuracy of Minute No 468 of the Ordinary Meeting of Council held on 16 December 2008.

Resolved:

(Moved: Councillors Cross/Duncombe)

That Minute No 468, as printed, be confirmed as accurate.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR

29

Victorian Bushfires

File: S06373

It was with incredible shock and sadness that we witnessed the unfolding of the horrific bushfire disaster in Victoria earlier this month.

These fires caused a massive trail of destruction with a loss of life and property far exceeding any other bushfire disaster in the nation's history.

As we in Ku-ring-gai also live with the constant threat of bushfire, it was truly frightening to see entire townships destroyed by this massive fire.

In recent weeks, the Ku-ring-gai community's thoughts and sympathies have been with the Victorian families who have lost loved ones and property in the tragedy.

These communities now face a long and difficult road to recovery. Rebuilding homes and community infrastructure will take a lot of time and money, and residents will also have to deal with the large emotional toll of what they have experienced.

One of the great things about the Australian spirit is the way we dig deep to help those most in need during times of crisis.

This generosity has come to the fore all around Australia in recent weeks with numerous fundraising activities to help the bushfire victims.

Council staff have organised their own fundraiser, collecting more than \$1,000. There have been generous donations from right across our community to a wide range of appeals including those organised by the Red Cross, the Salvation Army, local service clubs such as Rotary and our own State and Federal MPs.

I would like to take this one step further by proposing to donate \$10,000 of Council funds to the bushfire relief effort.

We are of course in tough economic times, but there is an absolutely compelling need to help these Victorian communities recover from this terrible disaster.

I know how much our community would appreciate such assistance if the tables were turned and we were the ones dealing with such tragedy.

I also believe the donation would be widely supported by our ratepayers – many of whom have contacted Council to inquire about how they can best help the bushfire victims.

I would also like to pay tribute to the fire-fighters – many of them volunteers - who worked in such terrible conditions to bring the Victorian bushfires under control.

Here in Ku-ring-gai, we regularly witness the invaluable role played by fire-fighters in protecting lives and property from bushfire.

The scale of the Victorian disaster would have been even greater without the efforts of the hundreds of fire-fighters who risked their own lives to help others.

Resolved:

(Moved: Acting Chairperson Councillor Ebbeck/Councillor Cross)

That, in the absence of the Mayor, the Mayoral Minute be deferred until the next Ordinary Meeting Council to be held on 10 March 2009.

CARRIED UNANIMOUSLY

30

Queen's Portrait

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File: S06915

Last year Council resolved to consult with residents about a preferred location within Council to hang a portrait of Her Majesty Queen Elizabeth II.

This consultation was done through a Poll Question on Council's website and in the January edition of Ku-ring-gai Update, which is sent to all Ku-ring-gai households.

A total of 256 responses were received as part of this process, or less than half a percent of Ku-ring-gai's eligible voters.

Of these, 223 were in favour of leaving the portrait in its current position in the Chamber behind the Mayor's chair, with 33 wanting it moved.

This equates to 87.2% of respondents wanting the portrait to stay where it is.

After being elected Mayor last September, I had moved the portrait to the Councillors' Board Room to allow Council's logo to be given a place of prominence in the Chamber.

However, as the vast majority of those who took the trouble to respond wished to retain the portrait in its position of prominence, then it shall remain. The logo representing Ku-ring-gai will remain in its position of lesser prominence.

I am completely satisfied that we have now fully consulted our residents on this issue, and I accept that this should have occurred before the portrait was moved. This was an omission on my part.

I am grateful to those who participated in the survey who obviously felt very strongly on the matter. I hope that now it can be put to rest.

Resolved:

(Moved: Acting Chairperson Councillor Ebbeck/Councillor Cross)

That, in the absence of the Mayor, the Mayoral Minute be deferred until the next Ordinary Meeting Council to be held on 10 March 2009.

CARRIED UNANIMOUSLY

31 **Report on Bushfire Issues**

File: S06373

The Victorian bushfire disaster is certain to prompt authorities throughout Australia to carefully assess how well they are prepared for bushfires of such magnitude.

Like all communities in bushfire-prone areas, Ku-ring-gai has a detailed disaster plan to prepare for all contingencies and co-ordinate emergency response operations for bushfires.

Planning is developed through the Hornsby Ku-ring-gai Local Emergency Management Committee which includes a wide range of agencies such as the Rural Fire Service, SES, NSW Police, RTA, public utilities and local councils.

We also have a local Bushfire Management Committee which focuses on reducing bushfire threats, mainly by regular hazard reduction burns.

Both these committees meet several times a year to discuss procedures and debrief on incidents. In fact they each last met the week before the Victorian disaster.

We also have a very capable local Rural Fire Service whose volunteers are second to none in job fighting bushfires.

Council has updated its planning policies to restrict or ban development in bushfire prone areas, but there are many cases where such development has been approved by the NSW Government or the Land and Environment Court.

All these measures are designed to firstly reduce bushfire risks and secondly to protect lives and property in the event of a bushfire occurring.

But the communities in Victoria had in place similar measures yet these were not enough to spare them from the terrible impacts of this massive bushfire.

The Victorian Government has announced a Royal Commission into the disaster and hopefully we will all be able learn from its findings to better protect our communities.

In the interim, I believe it would be worthwhile for Council to review all our policies and operations in relation to bushfires to determine possible areas for improvement.

This Mayoral Minute proposes a report from Staff addressing the following questions:

- How well prepared are emergency services and other agencies for a major bushfire disaster in Ku-ring-gai?
- Could co-ordination for bushfire response between the various agencies including Council be further improved?
- Can advice be sought through the Emergency Management Committee on the effectiveness of current operational plans to evacuate residents in the event of a major bushfire?
- How effective are the current measures for controlled hazard reduction burns? Are there any ways this could be improved?
- What educational material is currently provided to residents on how to reduce bushfire risks and prepare for a bushfire emergency? Could this information be improved, expanded or provided in more effective forms?
- How well do our planning policies incorporate bushfire safety and how could this be further improved? In 2007, Council asked the State Government to expand our gazetted bushfire emergency evacuation zones, but no action has yet been taken.

Can Council assess which other parts of Ku-ring-gai need to be included in bushfire emergency evacuation zones with a view to submitting a new proposal to the Government?

Resolved:

(Moved: Acting Chairperson Councillor Ebbeck/Councillor Cross)

That, in the absence of the Mayor, the Mayoral Minute be deferred until the next Ordinary Meeting Council to be held on 10 March 2009.

CARRIED UNANIMOUSLY

PETITIONS

- 32 **76A Highfield Road, Lindfield - Objection to Proposed Development at West Lindfield Sport & Recreation Club - (Three Hundred & Seventy-Six [376] Signatures)**

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File: P64458

"The undersigned object to the proposed development at the West Lindfield Sport & Recreation Club (WLSRC) relating to the creation of four floodlit all weather sports courts.

Such a development in a residential area will have a detrimental effect on local residents. Concerns regarding the proposed development relate the following issues in particular:

- o The scale of the proposed development;
- o The proposed increase in bar trading to 7 nights per week;
- o Inadequate provision for off-street parking for the scale of the development;
- o A significant increase in vehicular traffic on all the surrounding streets;
- o Intrusive floodlighting;
- o Increased periods of disruptive noise, especially later at night;
- o Changes to topography due to proposed excavation and fencing;
- o Pedestrian safety arising from the significant increase in traffic and an inadequate provision for off-street parking, together with a lack of footpaths and pedestrian crossings in the area; and
- o The exclusive use of community land by (and financial benefit to) one particular interest group, with no free access to local residents and the community generally.

The undersigned respectfully request that Ku-ring-gai Council does not consent to the proposed development."

Resolved:

(Moved: Councillors Duncombe/Keays)

That the Petition be received and referred to the appropriate officer of Council for attention.

CARRIED UNANIMOUSLY

GENERAL BUSINESS

33 **Code of Conduct**

File: S06344

To review the Code of Conduct.

Resolved:

(Moved: Councillors Cross/Keays)

That the revised Code of Conduct be adopted.

CARRIED UNANIMOUSLY

34 **Appointment of Independent Code of Conduct Panel**

File: S06344

To seek Council's consideration of the appointment of persons to review allegations of breaches of the Code of Conduct.

Resolved:

(Moved: Councillors Cross/Keays)

That Council appoint the following persons to review allegations of breaches of the Code of Conduct:

Bronwyn Connolly
Kath Roach
Mitchell Morley
Christopher Shaw
Melissa Gibbs
Steven Blackadder
Ken Davidson
James Marshall
Claire Brogan
Bernard Smith
John Kleem

For the Resolution: *Acting Chairperson, Councillor Ebbeck &
Councillors Holland, Keays, Duncombe, Hardwick
& Cross*

Against the Resolution: *Councillor Hall*

35

ALGWA (NSW) Conference 2009

File: S02815

For Council to nominate delegates to the 56th Australian Local Government Women's Association (NSW) Annual Conference 2009.

Resolved:

(Moved: Councillors Hall/Keays)

That the report be received and noted.

CARRIED UNANIMOUSLY

36 **Investment Report as at 31 December 2008**

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File: S05273

To present to Council investment allocations and returns on investments for December 2008.

Resolved:

(Moved: Councillors Cross/Duncombe)

- A. That the summary of investments and performance for December 2008 be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

CARRIED UNANIMOUSLY

37 **Investment Report as at 31 January 2009**

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File: S05273

To present to Council investment allocations and returns on investments for January 2009.

Resolved:

(Moved: Councillors Cross/Duncombe)

- A. That the summary of investments and performance for January 2009 be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

CARRIED UNANIMOUSLY

38 **Analysis of Land & Environment Court Costs, 2nd Quarter, 2008 to 2009**

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File: S02466

To report legal costs in relation to planning matters in the Land & Environment Court for the quarter ended December 2008.

Resolved:

(Moved: Councillors Cross/Keays)

That the analysis of Land & Environment Court costs for the first quarter ended December 2008 be received and noted.

CARRIED UNANIMOUSLY

39 **Tenders for Preparation of Design Plans for a New Depot - Tender T06/2008**

File: S06934

Ward: Gordon

To advise Council of the outcome of the tender for the preparation of DA plans and tender documents for the construction of a new depot at Suakin Street, Pymble and approval of the preferred tenderer for the work.

Resolved:

(Moved: Councillors Cross/Keays)

- A. That Council accepts the tender from Caldis Cook Architects for the preparation of the DA design and tender documentation and plans for the construction of the new depot incorporating the refurbishment of 31 Bridge Street, Pymble for the administration section.
- B. That the Mayor and General Manager be delegated authority to sign the deed of agreement on behalf of Council.

CARRIED UNANIMOUSLY

40 **Boomerang Street, Turramurra - Road Works & Tree Removal**

File: 88/05164/04

Ward: Wahroonga

To report to Council on the proposed tree removal and roadworks in Boomerang Street, Turramurra.

Resolved:

(Moved: Councillor Cross/Acting Chairperson, Councillor Ebbeck)

- A. That Council adopts the proposed tree removal and replacements as outlined in the "Final recommendation" column of Attachment 1 of this report.

- B. That directly affected residents be notified of Council's proposed action.

CARRIED UNANIMOUSLY

41 **2nd Quarter Management Plan - Update**

File: S06351

To report to Council on progress made toward achieving Key Performance Indicators as contained in Council's 2008-2012 Management Plan.

Resolved:

(Moved: Acting Chairperson, Councillor Ebbeck/Councillor Cross)

That the report on the progress of the Key Performance Indicators contained in the 2008-2012 Management Plan for the 2nd quarter of the Plan be received and noted.

CARRIED UNANIMOUSLY

42 **Gordon Golf Course - Draft Plan of Management**

File: S06604

To recommend adoption of the draft Plan of Management Gordon Golf Course.

Resolved:

(Moved: Councillors Keays/Cross)

- A. That Council adopt the Plan of Management Gordon Golf Course with minor amendments (as identified in Attachment 1).
- B. That all community members who have participated in the development of the Plan of Management be notified that the Plan of Management Gordon Golf Course has been adopted by Council.
- C. That a purchase price of \$0.60 per page applies to the sale of copies of the Plan of Management Gordon Golf Course.

CARRIED UNANIMOUSLY

43 North Turramurra Recreation Area - Draft Plan of Management

File: S06604

To recommend adoption of the draft Plan of Management North Turramurra Recreation Area.

Resolved:

(Moved: Acting Chairperson, Councillor Ebbeck/Councillor Cross)

- A. That Council adopt the Plan of Management North Turramurra Recreation Area with minor amendments (as identified in Attachment 1).
- B. That all community members who have participated in the development of the Management Plan for the North Turramurra Recreation Area be notified that the Plan of Management has been adopted by Council.
- C. That a purchase price of \$0.60 per page applies to the sale of any copies of the Plan of Management North Turramurra Recreation Area

CARRIED UNANIMOUSLY

44 Sale of Existing Council Depot Site at Gordon

File: S04550

Report by Director Operations & Manager Strategic Assets & Services dated 28 January 2009.

Resolved:

(Moved: Councillors Cross/Hall)

- A. That Council proceeds with the sale of Lots 1 and 2 DP 1116826, known as 1 to 7 Carlotta Avenue Gordon to UnitingCare NSW in accordance with their offer.
- B. That written acceptance of UnitingCare offer to acquire Lots 1 and 2 DP 1116826, known as 1 to 7 Carlotta Avenue, Gordon, is submitted to UnitingCare.
- C. That the Mayor and General Manager are delegated the authority to execute all documentation associated with the sale of land and any associated lease documentation.
- D. That the proceeds from the sale be made available for the construction of the new depot site and the refurbishment of 31 Bridge Street, Pymble.
- E. That the balance of the surplus funds be allocated to the New Facilities Reserve

CARRIED UNANIMOUSLY

*Standing Orders were suspended to deal with the
Business Paper items where there are speakers first - NM.1, NM.2 then GB.9
after a Motion moved by Councillors Hall & Duncombe
was CARRIED UNANIMOUSLY*

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

45 Safe Disposal of Community Sharps

File: S03613

The following member of the public addressed Council

H Willis

Notice of Motion from Councillor T Hall dated 2 February 2009

It is not widely known that despite the NSW Government identifying types of Clinical waste such as sharps generated with the home healthcare setting for safe disposal, no such regulated safe disposal methods are employed by NSW Local Councils as there are by other State Governments.

I move:

"That this Council raise with the State Government and the NSW Local Government Association the question of the disposal of non-commercial clinical waste, such as sharps, syringes and related items generated with the home care setting with a view to providing NSW Council's with a regulated universal safe disposal system".

Resolved:

(Moved: Councillors Hall/Cross)

- A. That Council investigate a safe disposal policy of clinical waste and report back to Council.
- B. That this Council raise with the State Government and the NSW Local Government Association the question of the disposal of non-commercial clinical waste, such as sharps, syringes and related items generated with the home care setting with a view to providing NSW Council's with a regulated universal safe disposal system.

CARRIED UNANIMOUSLY

46

Projected Ku-ring-gai Dwellings/Population Increases

File: S04554

The following member of the public addressed Council:

H Willis

Councillor Anderson arrived during address

Notice of Motion from Councillor T Hall dated 14 February 2009

I refer to Director Watson's memo of 9 February 2009 to the Mayor, as attached in the Greens, in response to Council's resolution of 2 December 2008 advising projected dwellings numbers as a result of the new residential/commercial land zonings in Ku-ring-gai.

In this communication, Mr Watson provided three scenarios of potential residential yield from 2009 to 2030, using 60 % take-up, 80% take-up and 100%-take-up of approved or to be approved residential unit zonings under LEP194/200 and the Ku-ring-gai Town Centres' draft LEP which give totals of:

1. 60% take-up of approved/draft approvals - 8176 dwellings
2. Mid range - take- up 80% - 10,516 dwellings
3. Max 100% take- up - 13,106 dwellings

In the Ku-ring-gai Planning Panel's letter of 10 November 2008 to those Ku-ring-gai owners whose properties were identified for open space acquisition by the Council, under the 3-5 year open space Strategy, it was disclosed the open space requirements for Ku-ring-gai LGA needed to meet a projected population of 26,000 persons (or 26% above the existing population).

In order then to identify the population yields of the above scenarios I obtained the Department of Planning's 2008 Sydney Metro Population projections to 2036, attached, that gave from 2.53 (2009) to 2.36 persons/ dwelling as at 2036. Adopting the lower figure, I found these alarming projected population figures for Ku-ring-gai LGA:

- | | |
|-------------|---|
| Scenario 1. | 19,295 persons or 19% increase over existing population (106,000) |
| Scenario 2. | 24,817 persons or 24% increase over existing population |
| Scenario 3. | 30,930 persons or 30% increase over existing population. |

It would appear therefore that the Ku-ring-gai Planning Panel's projected population figure of 26,000 is a reasonably accurate forecast.

When two independent Case Studies were undertaken for the Council in 2000, the professional consultancies involved, GHD on traffic and Sinclair Mertz Knight on additional water reticulation and sewerage connexions, confirmed existing infrastructure could only cope with a maximum 15% increase in population growth

over the next 25 years for Ku-ring-gai LGA. It is also a known fact public school enrolments will also exceed existing public school accommodation in the LGA as soon as 2010. It is also known that independent local schools are accepting the overflow in enrolments in 2009.

I move:

"That this Council requests the Ku-ring-gai Planning Panel to address in its recommendation to adopt the 2008 Ku-ring-gai Town Centres Local Environment Plan, what additional Infrastructure, such as schools, roads, water reticulation and sewerage, telephone and electricity increases, it proposes to seek from the State government when recommending its draft plan to the Planning Minister, in order to meet a projected increase of the Ku-ring-gai Local government Area's population of 26,000 persons, or 26%, the Council having already confirmed the existing infrastructure mentioned can only cater for an additional 15,000 or 15% population to 2030.

The Panel is asked to provide its Infrastructure recommendations to this Council prior to the Panel's formal submission to the Minister seeking gazettal of the draft LEP".

Resolved:

(Moved: Councillors Hall/Duncombe)

That the above Notice of Motion as printed be adopted.

CARRIED UNANIMOUSLY

GENERAL BUSINESS (cont)

47 **24 Gerald Avenue, Roseville - Construction of New Carport**

File: DA1262/08

Ward: Roseville

Applicant: Lindsay Little and Associates Pty Ltd

Owner: Mr. M. J Carroll

The following members of the public addressed Council:

M Carroll

I Glendinning

To determine development application No.1262/08 for the construction of a new double carport.

Resolved:

(Moved: Councillors Anderson/Duncombe)

- A. That Ku-ring-gai Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to the provisions of clause 60C of the Ku-ring-gai Planning Scheme Ordinance in respect of the built upon area development standard is well founded. Ku-ring-gai Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.
- B. That Ku-ring-gai Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to DA 1262/08 is consistent with the aims of the Policy, grant development consent to DA1262/08 for construction of a carport on land at 24 Gerald Avenue, Roseville, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation (alterations and additions)

The development must be carried out in accordance with work and dimensions shown on the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

<i>Plan no.</i>	<i>Drawn by</i>	<i>Dated</i>
3131/08-1-1, site analysis plan, elevations and section	Lindsay Little and Associates Pty Ltd	20 February 2009 and received by Council on 23 February 2009

<i>Document(s)</i>	<i>Dated</i>
Statement of Environmental Effects, prepared by Glendinning Minto and Associates Pty Ltd	December 2008 and received by Council on 9 December 2008

Reason: To ensure that the development is in accordance with the determination.

2. Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

Reason: To ensure that the development is in accordance with the determination.

3. No demolition of extra fabric

Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans (by way of notation). No approval

is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the development consent.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:

4. Notice of commencement

At least 48 hours prior to the commencement of any development (including demolition, excavation, shoring or underpinning works), a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

Reason: Statutory requirement.

5. Notification of builder's details

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

6. Tree Replenishment

The property shall support a minimum number of 3 canopy trees that will attain 13.0 metres in height on the site. To preserve the tree canopy of Ku-ring-gai, the existing tree/s, and 2, additional tree are to be provided as shown on the site analysis plan. The site analysis plan, including details of the 2 additional trees shall be submitted to and approved by the Principal Certifying Authority prior to release of Construction Certificate.

Reason: To Preserve the tree canopy and ensure adequate landscaping of the site.

7. Construction waste management plan

Prior to the commencement of any works, the Principal Certifying Authority shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with Council's DCP 40 – Construction and Demolition Waste Management.

The plan shall address all issues identified in DCP 40, including but not limited to: the estimated volume of waste and method for disposal for the construction and operation phases of the development.

Note: The plan shall be provided to the Certifying Authority.

Reason: To ensure appropriate management of construction waste.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE
CONSTRUCTION CERTIFICATE:**

8. Long service levy

In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

Reason: Statutory requirement.

9. Builder's indemnity insurance

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the Certifying Authority for endorsement of the plans accompanying the Construction Certificate.

It is the responsibility of the applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$12,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$12,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

Reason: Statutory requirement.

10. External finishes and materials (alterations and additions)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the external finishes of the carport are consistent with the character of the existing house and the streetscape.

Note: Details of the colour, finish and substance of all external materials, including schedules and a sample board of materials and colours, are to be submitted to the Certifying Authority.

Reason: To protect the streetscape.

11. Drainage of paved areas

All new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details of such measures shall be shown on the Construction Certificate drawings, to the satisfaction of the Certifying Authority.

Reason: To control surface run off and protect the environment.

12. Vehicular access and garaging

Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”. Details are to be provided to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that parking spaces are in accordance with the approved development.

13. Design of works in public road (Roads Act approval)

Prior to issue of the Construction Certificate, the Certifying Authority shall be satisfied that engineering plans and specifications prepared by a qualified consulting engineer have been approved by Council’s Development Engineer. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works required in Gerald Ave:

- Asphalt mound to direct stormwater runoff from the proposed driveway crossing widening to the street.

Development consent does not give approval to these works in the road reserve. The applicant must obtain a separate approval under sections 138 and 139 of The Roads Act 1993 for the works in the road reserve required as part of the development. The Construction Certificate must not be issued, and these works must not proceed until Council has issued a formal written approval under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any

conditions attached to the Roads Act approval issued by Council.

A minimum of three (3) weeks will be required for Council to assess the Roads Act application. Early submission of the Roads Act application is recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

Reason: To ensure that the plans are suitable for construction purposes.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):

14. Infrastructure restorations fee

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.

e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

Reason: To maintain public infrastructure.

15. Public liability insurance – works on public land

Any person or contractor undertaking works on public land must take out public risk insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council’s road reserve or public land, as approved in this consent.

The policy is to note and provide protection for Ku-ring-gai Council as an interested party and a copy of the policy must be submitted to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). The policy must be valid for the entire period that the works are being undertaken on public land.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:

16. Prescribed conditions

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia.

- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

Reason: Statutory requirement.

17. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

Reason: To ensure that the development is in accordance with the determination.

18. Demolition, excavation and construction work hours

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon and 1.00pm.

Where it is necessary for works to occur outside of these hours (i.e. concrete pours and standing of plant), approval for such will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

19. Construction noise

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

Reason: To ensure reasonable standards of amenity to neighbouring properties.

20. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

21. Dust control

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

Reason: To protect the environment and amenity of surrounding properties.

22. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Reason: To ensure safety and amenity of the area.

23. Guarding excavations

All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

Reason: To ensure public safety.

24. Protection of public places

If the work involved in the erection, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, a hoarding is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any hoarding, fence or awning is to be removed when the work has been completed.

Reason: To protect public places.

25. Construction signage

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property

- do not exceed 2.5m²
- are removed within 14 days of the completion of all construction works

Reason: To ensure compliance with Council's controls regarding signage.

26. Maintenance period for works in public road

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - after the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the applicant receives a formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

Reason: To protect public infrastructure.

27. Road reserve safety

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (2002) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

Reason: To ensure safe public footways and roadways during construction.

28. Services

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicants' full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services.

29. Temporary disposal of stormwater runoff

During construction, stormwater runoff must be disposed of in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.

Reason: To preserve and enhance the natural environment.

30. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

Reason: To protect the environment from erosion and sedimentation.

31. Drainage to street

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

Reason: To protect the environment.

32. Driveway trench drain at boundary

A 200mm wide grated drain, with heavy duty removable galvanised grates is to be located within the site at the intersection of the driveway and Council's footway to collect all surface water flowing down the driveway. The drainage line from the grated drain shall be connected to the street system, either separately or via the main site outlet.

Reason: Stormwater control.

33. No storage of materials beneath trees

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

Reason: To protect existing trees.

34. Removal of refuse

All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

Reason: To protect the environment.

35. Canopy replenishment trees to be planted

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species

Reason: To maintain the treed character of the area.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN
OCCUPATION CERTIFICATE:**

**36. Reinstatement of redundant crossings and completion of
infrastructure works**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing

All works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

Reason: To protect the streetscape.

37. Construction of works in public road – approved plans

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that all approved road, footpath and/or drainage works have been completed in the road reserve in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications.

The works must be supervised by the applicant's designing engineer and completed and approved to the satisfaction of Ku-ring-gai Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

Reason: To ensure that works undertaken in the road reserve are to the satisfaction of Council.

For the Resolution: *Acting Chairperson, Councillor Ebbeck & Councillors Anderson, Duncombe, Hall, Hardwick & Cross*

Against the Resolution: *Councillors Holland & Keays*

48

Council Committees

File: S06952

To report back to Council on the establishment of a Committee of the Whole & Reference Committees.

Resolved:

(Moved: Acting Chairperson, Councillor Ebbeck/Councillor Holland)

- A. That, in accordance with Clause 260 of *Local Government (General) Regulation 2005*, a General Committee be established with the functions set out in the draft Charter and further that the Charter be adopted, as amended.
- B. That, at the first meeting of the General Committee, the Committee give consideration to the adoption of meeting procedures and whether or not, in the event of an equality of voting, the Chairperson shall have a casting vote in addition to an original vote.
- C. That, in accordance with section 355 of the *Local Government Act 1993*, the Committees listed below be established with the functions set out in the draft Charters and further that the Charters be adopted, as amended:

1. Community Reference Committee
 2. Planning & Heritage Reference Committee
 3. Open Space Reference Committee
 4. Sustainability Reference Committee
- D. That the previously adopted Council meeting cycle remain unchanged with the exception of the second meeting of each month being changed to a General Committee meeting.
- E. That Council adopt the General Committee Charter.
- F. Recruitment for the reference committees commence in March 2009 and that a report be returned to Council recommending membership by May 2009.

CARRIED UNANIMOUSLY

49 **Application for a New Facilities Special Variation**

File: FY000019

To seek the approval of Council to apply to the Minister for Local Government for a New Facilities special variation to fund a new indoor aquatic and leisure facility at West Pymble Pool and development of the North Turramurra Recreation Area.

Resolved:

(Moved: Acting Chairperson, Councillor Ebbeck/Councillor Keays)

- A. That this report on the West Pymble Indoor Aquatic and Leisure Facility and the North Turramurra Recreation Area providing further details, including total project costs, be received and noted.
- B. That Council apply to the Minister for Local Government for a New Facilities special variation to general income under Section 508(2) of the Local Government Act 1993, of 5% increase for 6 years from 2009/10 to 2014/15, to fund West Pymble Pool upgrade and North Turramurra Recreation Area redevelopment.

CARRIED UNANIMOUSLY

50 **Draft Car Parks Generic Plan of Management**

File: S06604

To recommend adoption of the Car Parks Generic Plan of Management.

Resolved:

(Moved: Councillors Hall/Hardwick)

- A. That Council adopt the Car Parks Generic Plan of Management refer minor amendments (as identified in Attachment 1) with any reference to 'shared car parking' under the Climate Change objective being deleted from the Plan of Management.
- B. That all community members who have participated in the development of the Car Parks Generic Plan of Management be notified that the Plan has been adopted by Council.
- C. That a purchase price of \$0.60 per page applies to the sale of copies of the Car Parks Generic Plan of Management.

*For the Resolution: Acting Chairperson, Councillor Ebbeck &
Councillors Keays, Anderson, Duncombe, Hall,
Hardwick & Cross*

Against the Resolution: Councillor Holland

51 **Budget Review 2008 to 2009 - 2nd Quarter Review as at December 2008**

File: S06351

To present to Council the quarterly financial review for the 2nd quarter ended 31 December 2008.

Resolved:

(Moved: Councillor Hall/Acting Chairperson, Councillor Ebbeck)

- A. That Council adopt the budget adjustments contained in this report.
- B. That the Restricted Assets Report Forecast to 30 June 2009 as at 31 December 2008, as shown in Attachment B be noted.
- C. That the reserve movements contained in this report be approved.
- D. That \$206,400 be transferred from the Infrastructure and Facilities Reserve to maintain working capital at a satisfactory level of \$699,600.

- E. That Council adopt the revised allocations for the footpath and traffic facilities programs as shown in the tables in the report.

CARRIED UNANIMOUSLY

The Meeting closed at 8.26pm

The Minutes of the Ordinary Meeting of Council held on 24 February 2009 (Pages 1 - 33) were confirmed as a full and accurate record of proceedings on 10 March 2009.

General Manager

Mayor / Chairperson